

BY HAND

August 26, 2022

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Judge Jesse M. Furman

United States District Judge
 Southern District of New York
 40 Foley Square
 New York, NY 10007

RE: United States v. Schulte, S3 17 cr. 548 (JMF)

Dear Judge Furman:

I understand that the Court has declined to reconsider its prior ruling regarding the seizure of my laptop, but has ordered the government to inform whether its review of the laptop is complete. Until such time as the government responds, I am left with no ability to work on my Rule 29/33 motions which are due at the end of September. As the Court did not order the government to respond to the other issues raised in my August 25, 2022 letter and because the government has indicated it will respond only as directed by the Court, I write about the remaining issues and ask the Court to order the government to be responsive. Alternatively, I ask the Court to set a status conference so that I may seek redress from the Court.

I. Rule 29/33 Motions

A. MDC discovery computer inadequate

- Does not have Office or Word; could not open my draft Rule 29/33 motion if I had it and cannot edit/modify it.

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- Does not permit you to save data to disk; even if I had the draft, I could not make any changes; Cannot review notes in word
- Does not permit you to print
- Does not permit law library research

B. Missing Materials from laptop

- I cannot access my draft rule 29/33 motion (and substantial work product) that exists on the laptop
- Cannot access my notes from trial
- Cannot access the trial transcripts, evidence, and 350D materials from the trial

C. A SAMS inmate is not like any other inmate

The government has falsely claimed that I can make do with BOP "resources" like "any other inmate". I am not like any other inmate as the government holds me in indefinite solitary confinement in SAMS, and in no other situation has an inmate poured his work product into a laptop that was then seized—leaving him devoid of his entire work product. Moreover, due to SAMS I am forbidden from the institution's law library and those vast resources—to substitute, the government provided the laptop. If the government's position is to then remove the laptop, then the government should remove me from SAMS—otherwise this is a tremendous violation of due process; I cannot access the vast resources of the institution's law library nor can I use a laptop? Then I am left in perpetual punishment—indefinite solitary confinement without even the ability to review my own discovery or work on my case. SAMS and administrative segregation cannot be used by the government as punishment—no judge has sentenced me to indefinite solitary confinement as punishment.

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If I were in general population, I could go to the Discovery Unit where I could access the institution's law library and vast resources currently unavailable to me—and do so each and every day. This would not solve all of the problems, but many of them.

D. Prior Seizures

Twice before the government seized the laptop pursuant to a search warrant where they claimed the laptop may have been connected to the internet as an excuse to seize it, need all my legal documents, and cause me hardship. Each time, it was confirmed not only that the laptop had never been connected to the internet but also that no minor rule had ever been violated in using the laptop. The government eventually returned the laptop after 5 months. This time will be no different from the previous two—there is almost no difference in the data on the laptop this time compared to the previous seizures. It takes 5 minutes to check if a computer has been connected to the internet—5 minutes, not 5 weeks.

And once the government confirms the laptop has never been connected to the internet, there is both no need nor any legal basis to review any files on the laptop—since it was never connected to the internet, the information from the laptop can only come from two sources—the government and my attorney's. Any claims of "entireband" would be suspect as this information exists only because the government provided it to me.

Furthermore, I note that I will require a forensic copy of the laptop hard drive to copy my draft motions, notes, and other documents—but at which point the production of this

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forensic copy must indicate that there is no contraband on the laptop itself. Accordingly, there would be no reason for the government to continue its seizure of the laptop.

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Giving me more time to write the motions will not solve these issues and could be unfair to me in the long run. Accordingly, due to the many issues that prevent me from reviewing my disbarment or working on my Rule 29/33 motion, I ask the Court schedule a status conference as soon as possible to resolve these issues.

Respectfully Submitted,
 Josh Schulte
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